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**Title 5 Policy on Variances for Increased Flow Resulting in a Facility Design Flow of
10,000 gpd to 15,000 gpd**

Effective date: 1/12/2000

Policy #: BRP/DWM/PeP-P00-2

Program Applicability: BRP, Watershed Permitting, Title 5 Program

Supersedes Policy #: None

Approved by: [signed] Arleen O'Donnell

Purpose: Questions have arisen as to when a variance for increased flow under Title 5 may be granted when the resulting facility design flow would be 10,000 gallons per day (gpd) to 15,000 gpd. This SOP provides criteria for DEP Title 5 Regional and Boston staff to review such variance applications.

Relevant provisions of Title 5

310 CMR 15.004(2)(b), Applicability

310 CMR 15.006(3) and (4), Facilities Where the Total Design Flow Generated on the Facility Equal of [sic] 10,000 gpd or Greater but less than 15,000 gpd

310 CMR 15.414, Variances for Increased Flow to Existing Systems

Applicability: This Policy applies to applications under Title 5, 310 CMR 15.414, for variances to: 1) increase flow to a large system (a facility with an existing design flow of 10,000 gpd to 15,000 gpd) that would result in a facility design flow of not greater than 15,000 gpd; and 2) increase flow at a facility with a design flow of less than 10,000 gpd, where the proposed increase in flow would result in a facility design flow of 10,000 to 15,000 gpd.

Text: When a facility owner or system owner proposes an increase in design flow at a facility where the existing design flow is 10,000 to 15,000 gpd, the owner must submit an application for a variance for increased flow in accordance with 310 CMR 15.006(4) and 310 CMR 15.414.

Likewise, where a facility or system owner proposes to increase design flow at a facility with a design flow of less than 10,000 gpd, and the proposed increase would result in a facility design flow of 10,000 gpd to 15,000 gpd, the owner must submit an application for a variance for increased flow in accordance with 310 CMR 15.006(3) and 310 CMR 15.414.

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.



As part of or prior to the application process, the applicant, at minimum, must do the following:

1. Have all systems inspected by a DEP approved System Inspector and submit the inspection reports to DEP; the inspections must demonstrate that no system poses a significant threat to public health and safety and the environment based on the criteria in 310 CMR 15.304.
2. Pursuant to 310 CMR 15.414(1)(b), the applicant must submit a comparison of the costs of proceeding under the Groundwater Discharge Permit Program with the costs of proceeding under Title 5, as set forth below.
3. Pursuant to 310 CMR 15.414(1)(c), the applicant must demonstrate whether an upgrade in compliance with 310 CMR 15.000 is feasible without the increased flow.
4. Pursuant to 310 CMR 15.414(2), the applicant must demonstrate that the system with the increase in flow cannot be brought into full compliance with Title 5; this showing automatically is established by the fact that with the increase in flow, the resulting facility design flow would be greater than 10,000 gpd. Consistent with 310 CMR 15.414(2)(d), the applicant also must establish that a sewer connection is infeasible.
5. Finally, the applicant must meet the requirements of 310 CMR 15.414(3), which states:

“(3) The upgraded system with the increased flow provides better protection of public health and safety and the environment than the existing system with no increase in flow. Increased flows not in compliance with 310 CMR 15.000 will rarely provide better protection than existing flows to a system designed and constructed in compliance with the 1978 Code or 310 CMR 15.000, but are more likely to constitute improvements over nonconforming or failed systems.”

In order to meet the requirements of 310 CMR 15.414(3), the applicant must submit system plans to:

- a. upgrade all failing systems and all cesspools under MFC;
- b. offset the pollutant loading from the proposed increase in flow by providing treatment so that the total pounds of BOD, TSS and nitrogen to be discharged on the facility after the increase in flow would be less than the total amount of those pollutants currently discharged; and
- c. if the facility is in a private well area, as described in 310 CMR 15.214(2), demonstrate that the total design flow, with the proposed increase in flow, will meet the 440 gpd per acre design flow limitation.

As noted above, consistent with 310 CMR 15.414(1)(b), the applicant also must compare the costs of complying with the requirements of the Groundwater Discharge Permit Program, 314 CMR 5.00 and 314 CMR 6.00, to those of meeting the upgrade requirements under Title 5, as described above. This means that the applicant must compare both the costs of proceeding under the Nutrient Loading Approach and proceeding with a WWTF and a Class I discharge to those of proceeding under Title 5.

Based on all of the information submitted, staff then will determine whether a variance for increased flow will be granted. The Title 5 Section in Boston will be available to offer assistance to regional staff processing such variance applications.

Application

Applicants for a variance for increased flow where the resulting facility design flow would be 10,000 to 15,000 gpd should file a permit application and fee in accordance with 310 CMR 4.00, category BRPWP66a (BRPWP63 for state and federal facilities). The applicant must submit the usual Title 5 application materials, for example, documentation of the results of the site evaluation, as well as the information delineated above.